



**NEVADA COMMISSION ON ETHICS  
EXECUTIVE DIRECTOR'S REPORT AND RECOMMENDATION  
REGARDING JUST AND SUFFICIENT CAUSE**

REQUEST FOR OPINION NO. 04-34

SUBJECT: JOHN HAWK, MEMBER  
STATE BOARD OF EDUCATION

**A. JURISDICTION:**

Mr. Hawk is a public officer as defined by NRS 281.005 and NRS 281.4365. As such, the Commission has jurisdiction over the complaint.

**B. REPORT OF INVESTIGATIVE ACTIVITIES:**

- Reviewed Request for Opinion #04-34 (see Tab B).
- Reviewed subject's response received May 28, 2004 (see Tab C).
- Reviewed NCOE advisory opinion 03-48, rendered to John Hawk (see Tab D).
- Reviewed transcript of NCOE advisory opinion hearing for RFO 03-48 (see Tab E).
- Reviewed John Hawk's verbatim disclosure from the State Board of Education meeting on May 8, 2004 (see Tab F).
- Reviewed minutes of Nevada State Board of Education meeting held May 7-8, 2004, and minutes of its Subcommittee on Charter Schools meeting held May 7, 2004 (see Tab G).
- Reviewed financial information supplied by John Hawk and calculated direct pecuniary interest in Nevada State High School (see Tab H).
- Reviewed financial disclosure statement filed by John Hawk on May 24, 2004, and ethics acknowledgment filed on January 29, 2001 (see Tab I).

- Interviewed John Hawk, subject of the complaint; Keith Rheault, Superintendent, Nevada Department of Education; Ed Irvin, Deputy Attorney General, Counsel for the Nevada State Board of Education and the Nevada Department of Education; Thomas McCormack, Charter School Consultant for the Nevada Department of Education; and Craig Kadlub, Director of Public Affairs for the Clark County School District.

**C. RECOMMENDATIONS:**

1. Based on investigative activities, the Executive Director recommends that the Panel find that just and sufficient cause **DOES EXIST** for the Commission to hold a hearing and render an opinion in this matter relating to the provisions of:

- NRS 281.481(1);
- NRS 281.501(2);
- NRS 281.501(4);
- NCOE Opinion No. 03-48; and
- Other relevant provisions of ethics law.

**SPECIFIC REASONS:**

Sufficient credible evidence exists to support a finding of just and sufficient cause for the Commission to hear the matter and render an opinion on whether the subject of the complaint violated the above provisions of NRS Chapter 281.

2. Based on investigative activities, the Executive Director recommends that the Panel find that just and sufficient cause **DOES NOT EXIST** for the Commission to render an opinion in this matter relating to the provisions of:

- NRS 281.481(2); and
- NRS 281.481(9).

**SPECIFIC REASON:**

No allegation or credible evidence of any fact that amounts to or supports a violation by any public officer of the above provision of NRS Chapter 281.

**D. SUMMARY OF REQUESTS FOR OPINION**

**RFO 04-34:** Request for opinion 04-34 was initiated by the Commission on its own motion to determine whether John Hawk, as an elected member of the Nevada State Board of Education and a co-director of Nevada State High School charter school:

1. Used his position in government to secure unwarranted privileges, preferences, exemptions, or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity in violation of NRS 281.481(2);
2. Attempted to benefit his personal or financial interest through the influence of a subordinate, to wit Superintendent of Public Instruction Keith Rheault, in violation of NRS 281.481(9);
3. Failed to adequately disclose his private interests at the time the charter school application came before the State Board in violation of NRS 281.501(2) and/or 281.501(4);
4. Acted in contravention of NCOE Opinion No. 03-48 issued to Mr. Hawk on January 22, 2004 at his request pursuant to NRS 281.511(1) and binding upon his future conduct as a public officer; and
5. Violated any other provision of NRS 281.411 – 281.581, Nevada’s Ethics in Government law.

**E. SUMMARY OF SUBJECT’S RESPONSE**

**RFO 04-34:** Mr. Hawk has not resigned from the Board, has filed for re-election to the Board, and states he has not decided whether to continue his service as an elected official on the Board. Regarding the approval of Nevada State High School charter school (NSHS) by the Board, Mr. Hawk stipulates he disclosed his association as a member of the committee to form the high school and abstained from voting on the agenda item. He further states both he and his wife are undecided whether either of them will serve as a co-director of NSHS charter school, and instead either or both of them may work with NSHS charter school on a volunteer basis. Both Mr. and Mrs. Hawk each received three month’s salary from NSHS through a federal start up grant.

**F. PERTINENT STATUTES AND REGULATIONS**

**NRS 281.481 General requirements; exceptions.** A code of ethical standards is hereby established to govern the conduct of public officers and employees:

1. A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.

2. A public officer or employee shall not use his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person. As used in this subsection:

(a) “Commitment in a private capacity to the interests of that person” has the meaning ascribed to “commitment in a private capacity to the interests of others” in subsection 8 of NRS 281.501.

(b) “Unwarranted” means without justification or adequate reason.

9. A public officer or employee shall not attempt to benefit his personal or financial interest through the influence of a subordinate.

**NRS 281.501**

2. Except as otherwise provided in subsection 3, in addition to the requirements of the code of ethical standards, a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in his situation would be materially affected by:

- (a) His acceptance of a gift or loan;
- (b) His pecuniary interest; or
- (c) His commitment in a private capacity to the interests of others.

It must be presumed that the independence of judgment of a reasonable person would not be materially affected by his pecuniary interest or his commitment in a private capacity to the interests of others where the resulting benefit or detriment accruing to him or to the other persons whose interests to which the member is committed in a private capacity is not greater than that accruing to any other member of the general business, profession, occupation or group. The presumption set forth in this subsection does not affect the applicability of the requirements set forth in subsection 4 relating to the disclosure of the pecuniary interest or commitment in a private capacity to the interests of others.

4. A public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon any matter:

- (a) Regarding which he has accepted a gift or loan;
- (b) Which would reasonably be affected by his commitment in a private capacity to the interest of others; or
- (c) In which he has a pecuniary interest,

without disclosing sufficient information concerning the gift, loan, commitment or interest to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the person to whom he has a commitment, or upon his interest. Except as otherwise provided in subsection 6, such a disclosure must be made at the time the matter is considered. If the officer or employee is a member of a body which makes decisions, he shall make the disclosure in public to the Chairman and other members of the body. If the officer or employee is not a member of such a body and holds an appointive office, he shall make the disclosure to the supervisory head of his organization or, if he holds an elective office, to the general public in the area from which he is elected. This subsection does not require a public officer to disclose any campaign contributions that the public officer reported pursuant to NRS 294A.120 or 294A.125 in a timely manner.

8. As used in this section, “commitment in a private capacity to the interests of others” means a commitment to a person:

- (a) Who is a member of his household;

- (b) Who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity;
- (c) Who employs him or a member of his household;
- (d) With whom he has a substantial and continuing business relationship; or
- (e) Any other commitment or relationship that is substantially similar to a commitment or relationship described in this subsection.

#### **G.     RESULTS OF INVESTIGATION**

Mr. Hawk appeared before the Commission on November 13, 2003 representing himself in a request for an advisory opinion regarding potential conflicts between his public role as an elected member of the Nevada State Board of Education and his private role as a member of a committee to form a charter high school. *NCOE Opinion No. 03-48* (see Tab D) was issued to Mr. Hawk by the Commission. At the November 13 hearing, Mr. Hawk represented he understood the opinion issued by the Commission would be binding on his conduct (see transcript p. 1, lines 17-22 under Tab E).

Certain inconsistencies exist between the information provided to the Commission by Mr. Hawk in November of 2003 and information presently provided. Additionally, certain information upon which the Commission based *Opinion No. 03-48* appears to be inaccurate.

Mr. Hawk was elected to the State Board of Education (Board) in November of 2000, and took office in 2001. His term expires at the end of 2004. Last November, Mr. Hawk indicated he was undecided as to whether he would run for re-election to the Board. On May 3, 2004, he filed for re-election to the Board. No other candidates are running for Mr. Hawk's Board seat. He presently indicates he is undecided regarding whether to continue his service as an elected official on the state Board, yet he filed for re-election less than two months ago and states he plans to campaign for the Board seat.

The Clark County School District (CCSD) rescinded its approval to sponsor Nevada State High School charter school on March 11, 2004. The CCSD declined, for the second and final time, to sponsor Nevada State High School on March 25, 2004. Clearly, by March 25 Mr. Hawk knew his position as a proponent of the charter school would come into conflict with his position on the Board. Yet he still filed for re-election on May 3, despite the fact that the charter school application would go to the Board for consideration on May 8.

Last November, Mr. Hawk indicated he was an employee of CCSD. Now, he represents that since August of 2002 he has been an employee of the Southern Nevada Regional Professional Development Program, and that the CCSD merely performs accounting functions for that program. When asked by the Executive Director at what point he became aware that his employer was not the CCSD, he did not answer the question. Mr. Hawk's wife remains an assistant principal in the CCSD.

Mr. Hawk told the Commission both he and his wife, Wendi, would resign their employment with the CCSD when they became co-directors of Nevada State High School charter school. Presently, both John and Wendi Hawk remain CCSD employees, but have also received three months of salary from the charter school through a federal start-up grant. The monetary value of the gross salary from the federal grant for their household totaled \$34,320, received in April, May, and June of 2004. The receipt of the salary by both John and Wendi Hawk creates a pecuniary interest in the charter school.

*NCOE Opinion No. 03-48* provided:

“Regulation of charter schools, including renewal and revocation of a school’s charter, is within the statutory authority of the charter school’s sponsor. Where a charter school is sponsored by the State Board of Education, initiation of charter revocation proceedings against the charter school is within the power of the Superintendent of Public Instruction, a position that serves at the pleasure of the State Board of Education and acts as the Board’s secretary. Dr. Hawk, as an elected member of the State Board of Education, is in a position to advocate for or against and vote on employment matters relating to the Superintendent of Public Instruction. In effect, then, if the State Board of Education sponsors Nevada State High School charter school for which Dr. Hawk and his wife serve as co-directors, Dr. Hawk, as an elected member of the State Board of Education, is in a position of being able to exercise authority over and exert pressure on the person who has the power to exercise authority over the charter school’s charter. Consequently, should the Clark County School District reject sponsorship and the State Board of Education becomes Nevada State High School charter school’s sponsor, Dr. Hawk’s dual positions as an elected member of the State Board of Education and as a co-director with his wife of Nevada State High School charter school would create an impermissible conflict of interest between his public duties and his private interests under Nevada’s Ethics in Government law based upon the potential for Dr. Hawk (or any other member of the State Board of Education in the same or a similar situation) to use his public office to benefit the charter school in which he and his wife have personal and pecuniary interests.

Therefore, should the State Board of Education ultimately sponsor Nevada State High School charter school and Dr. Hawk and his wife serve as the charter school’s co-directors, to avoid an inherent conflict of interest under Nevada’s Ethics in Government law, Dr. Hawk will be required to resign his position as an elected member of the State Board of Education.”

Mr. Hawk indicates both he and Mrs. Hawk are presently undecided whether they will serve as co-directors of the charter school, and that either or both may work with the school on a volunteer basis. Regardless of whether they serve as co-directors, the receipt of salary previously outlined creates a pecuniary interest and appears to create an impermissible conflict of interest between Mr. Hawk’s public duties and private interests in contravention of *Opinion No. 03-48*.

In the November 13, 2003 transcript, Mr. Hawk also represented he had distanced himself from contact with the Department of Education during the Department's completeness review of the charter school application (see transcript p. 27, lines 7-21 under Tab E). However, information provided by the Department indicates that Mr. Hawk was listed as the primary contact for the charter school application, which was received by the Department on August 27, 2003. The completeness review was completed December 5, 2003. The primary staff person working on the completeness review estimated approximately two-thirds of the contact regarding the charter school application was with John Hawk, and one-third with Wendi Hawk.

The Executive Director believes sufficient credible evidence exists to present this information to the full Commission as a potential violation of the binding advisory opinion. Only the full commission has the authority to determine if the conduct of Mr. Hawk in relation to these issues rises to the level of a violation of state law. Therefore, the Executive Director recommends the panel find just and sufficient cause exists for the Commission to hear the matter and render an opinion on whether Mr. Hawk violated ethics law in this matter.

***Allegations Regarding Violations of NRS 281.481:***

Department of Education staff interviewed represent that though they were aware that Mr. Hawk is a member of the Nevada State Board of Education, Mr. Hawk did not request nor was he given any preferential treatment in the charter school application process. Further, Department staff represent Mr. Hawk's position on the Board would not have given him access to any information not generally available to other members of the public.

During Mr. Hawk's hearing before the Commission Commissioner Hsu referenced *NCOE Opinion No. 98-71*, which provides:

"The Commission determined that NRS 281.230(1) and NRS 281.481(2) expressly prohibit Mr. B from obtaining a position as School Board Trustee while concurrently employed as a substitute teacher for the School Board for the following reasons.

As a School Board Trustee, Mr. B would be in the untenable position of having the power to hire and fire the one person responsible for removing candidates from the substitute teacher's list, thereby being in the position to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself as a substitute teacher. This would be a violation of NRS 281.481(2) and would create the type of compensatory relationship prohibited by NRS 281.230(1).

The Commission in no way infers that Mr. B would use the position as School Board Trustee in order to unduly coerce or influence the Supervisor of Personnel regarding any aspect of his employment as a substitute teacher as prohibited by NRS 281.481(2). Nonetheless, the Commission takes the position that the mere opportunity for an employer to effect undue or unwarranted influence over a subordinate in order to advance his own pecuniary interests would create an appearance of impropriety; a hurdle that Mr.

B would not be able to surpass unless he were to resign his employment as a substitute teacher.”

Superintendent Keith Rheault is the only employee of the Department who could be considered a subordinate of Mr. Hawk in his role as a state Board member. Discussions with Mr. Rheault and additional investigative activities conducted by the Executive Director did not reveal credible evidence that Mr. Hawk had used his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages in violation of NRS 281.481(2), or that Mr. Hawk had attempted to benefit his personal or financial interest through the influence of a subordinate in violation of NRS 281.481(9). Therefore, the Executive Director finds no credible evidence exists to substantiate further investigation with regard to a potential violation of NRS 281.481(2) or NRS 281.481(9). Accordingly, the Executive Director recommends the panel find just and sufficient cause does not exist for the Commission to hear the matter and render an opinion on whether Mr. Hawk violated the provisions of NRS 281.481(2) or NRS 281.481(9).

However, the Executive Director has concerns regarding a potential violation of NRS 281.481(1). *NCOE Opinion No. 98-19* provides:

“The issue in this matter is whether Ms. A used her position as a public attorney to grant an unwarranted privilege, preference or advantage for herself and a member of her household in violation of NRS 281.481(2).

NRS 281.481(2) provides:

A public officer or employee shall not use his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any member of his household, any business entity in which he has a significant pecuniary interest, or any other person.

The ordinance questioned by Ms. A's superior, Mr. A and Ms. A, is essentially identical to NRS 281.481(2). Ms. A does not dispute that she is bound by both the ordinance and NRS 281.481(2), but requests advice on whether she, by her conduct, violated the applicable provisions of city and state law. For our purposes, this opinion will refer to NRS 281.481(2) only.

The Commission concludes that there is a violation of NRS 281.481(2). Ms. A may not have intentionally directed a potential client to her husband for advice with the foreseeable outcome that the casual relationship would eventually turn into a paying attorney-client relationship, however, both Ms. A and Mr. A ultimately benefited financially from the arrangement. *This benefit was unwarranted because it was easily avoidable. It does not matter how, where, or why the situation presented itself. What does matter is that this situation could have been prevented by Ms. A's referring Ms. V's questions on civil law matters to a non-relative attorney or by Mr. A similarly providing such a referral. Public employees need to maintain a separation of their personal and private relationships that may in any way provide an unwarranted privilege or advantage*



*that otherwise would not have presented itself had the person not been a public employee.” (Emphasis added.)*

Though Opinion No. 98-19 refers to the provisions of NRS 281.481(2), the concern raised by the Commission in this opinion can be applied to Mr. Hawk’s case in the context of NRS 281.481(1). The Executive Director believes the failure of Mr. Hawk to resign his position with the state Board once he knew the Nevada State High School charter school application would come before the state Board may implicate the provisions of NRS 281.481(1). To wit, the failure of Mr. Hawk to resign his position with the state Board while concurrently both actively seeking and accepting an economic opportunity and employment with the charter school – via his acceptance of salary – constitutes conduct which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties. Moreover, this may be a willful act on the part of Mr. Hawk as per the discussion in *Opinion No. 98-19* - because it was easily avoidable.

Mr. Hawk knew or reasonably should have known by March 11, 2004 the charter school application would advance for sponsorship to the state Board. This was confirmed on March 25, 2004 when the Clark County School District denied the charter school application for the second time. Yet Mr. Hawk failed to maintain a separation of his personal and private commitments by filing for re-election to the state Board on May 3, 2004, just five days before the charter school application would be considered by the State Board.

The Executive Director believes sufficient credible evidence exists to present this issue to the full Commission. Only the full commission has the authority to determine if the conduct of Mr. Hawk rises to the level of a violation of state law. Therefore, the Executive Director recommends the panel find just and sufficient cause exists for the Commission to hear the matter and render an opinion regarding whether Mr. Hawk violated the provisions of NRS 281.481(1).

***Allegations Regarding Violations of NRS 281.501:***

Mr. Hawk was counseled by the Commission to follow the *Woodbury* opinion (*NCOE Opinion No. 99-56*) regarding standards for disclosure and abstention, as well as being given specific advice through *Opinion No. 03-48*, to wit:

“In accordance with those standards, when a matter is before the Board of Education that implicates Nevada State High School charter school and/or charter schools in general, the burden is on Dr. Hawk, pursuant to the provisions of NRS 281.501 and the Commission’s interpretation of those provisions as set forth in its published opinions, to disclose his private commitments and his pecuniary interests and the effect those commitments and interests can have on the decision-making process, and to make a proper determination regarding abstention where a reasonable person’s independence of judgment would be materially affected by those private commitments and pecuniary interests. In making a disclosure, Dr. Hawk must disclose sufficient information concerning his commitments in a private capacity and his pecuniary interests to inform the public of the potential effect of his action as required by NRS 281.501(4); and, after making such proper disclosure,

determine whether the independence of judgment of a reasonable person in his situation would be materially affected by his commitments and/or his interests, under the circumstances presented in a particular matter; and, if so, he must also refrain from advocating the passage or failure of the matter and abstain from voting upon the matter, all in accord with NRS 281.501(2). When Dr. Hawk believes a nexus between a matter before the Board of Education and Nevada State High School charter school would not materially affect the independence of judgment of a reasonable person in his situation under the circumstances presented in the particular matter and, therefore, his abstention in the matter is not required pursuant to NRS 281.501(2), in addition to disclosing sufficient information concerning his private commitments to and interests in Nevada State High School charter school to inform the public of the potential effect of his action as required by NRS 281.501(4), he must also disclose the reason he believes that the independence of judgment of a reasonable person in his situation would not be materially affected under the circumstances and why, therefore, his abstention is not required.”

At the same November 13, 2003 meeting at which Mr. Hawk appeared, the Commission admonished Las Vegas City Councilman Michael Mack for failing to adequately disclose pursuant to law. To cite the Mack opinion:

*NCOE Opinion No. 03-40*: “However, by this opinion, public officers are admonished that the Commission takes seriously the issues of proper disclosure and abstention. The Commission will not hereafter under circumstances substantially similar to those discussed herein tolerate disclosures or abstentions that fail to meet the requirements of NRS 281.501 and the standards of the Commission’s published opinions. “

Mr. Hawk’s hearing was after Councilman Mack’s hearing and, in fact, Mr. Hawk was in attendance to personally hear the Commission render its opinion to Mr. Mack.

Thus, the Executive Director must conclude ample opportunity existed for Mr. Hawk to develop a good understanding of the provisions of NRS 281.501. Though Mr. Hawk knew or should have known his statutory obligations regarding disclosure and abstention, when the Nevada State High School charter school application was before the Board on May 8, 2004, the verbatim Board minutes supplied by the Department of Education (see Tab F) indicate his disclosure consisted of the following statement:

“I will be abstaining from voting on this particular item because of my closeness as a member of the Committee to Form the Nevada State High School. But I would be very open to answering any particular questions that any Members of this particular Board have concerning the high school.”

As previously noted, Mr. Hawk filed for re-election on May 3, despite the fact that the charter school application would go to the Board for consideration on May 8. Further, Mr. Hawk signed his candidate financial disclosure statement on May 18, 2004 and filed it with the Secretary of State on May 24, 2004 (see Tab I). Neither the financial disclosure statement filed May 24 nor Mr. Hawk’s May 8 disclosure at the Board meeting regarding the charter school disclose the pecuniary interest (on the financial disclosure statement it would be noted as a source of income)

of Mr. Hawk or his wife created by the acceptance of salary from the charter school – which by May 8 exceeded \$20,000.

Additionally, the Executive Director considered the application of *NCOE Opinion No. 97-07*, which is readily available on the NCOE web site. The opinion provides:

*NCOE Opinion No. 97-07*: “The issues raised in this Opinion present another scenario where the fine line between advocacy and participation can be seen. For example, let us assume a matter involving garbage collection came before the County Commission, so Ms. Kubichek had to disclose her interest in Desert Disposal and abstain from voting or advocating regarding the matter. NRS 281.501(2) would allow Ms. Kubichek to “otherwise participate” in the matter, and in order to render this term meaningful, we find that the Legislature meant that Ms. Kubichek could do **something**. That “something” might be, for example, that Ms. Kubichek could provide facts **as any other citizen**. This is particularly crucial to this Opinion because Ms. Kubichek was, presumably, elected in part because of her unique knowledge of garbage and landfill issues that were pertinent to her constituents. Again, we cannot find in NRS 281.501(2) and (3) or any other portion of the Ethics in Government Law that a public official loses her voice after her election regarding issues about which she might possess unique and valuable knowledge and experience.

We must caution, though, that the line dividing allowable factual testimony and prohibited advocacy is razor thin. Statements that begin, “in my opinion...,” “I think...,” “I believe...,” or “I would hope...,” would be signals that the statement might be more advocate than informative. A statement like, “The standard dumpster you see in the back of restaurants holds X cubic yards of garbage,” would clearly be an allowable statement of fact. The intent of the statement is guiding. *A statement of advocacy is prohibited, even if factual, because the intent of advocacy is to get the hearer to believe the same as the speaker, and where the speaker has special influence and power because of her position, the hearer might be influenced to act not because of the merits of the speaker’s argument but because of the speaker’s position itself. On the other hand, a statement of fact, without any overtones of advocacy, is allowed because the intent of the speaker is merely to inform the hearer and so theoretically the person of the speaker should be irrelevant because information is information and facts are facts, regardless of who provides them.*

As we have said before, the line between a statement of fact and a statement of advocacy will often be razor thin. Because the consequences of crossing the line will always rest upon the elected official proffering the statement, the best general rule we can give is that *an elected official who has already disclosed and abstained from a matter because of a disabling conflict of interest should always consider whether what she has to say really needs to be said, and if she thinks so, then she must be very careful with what she says and how she says it.* Prudential forethought, common sense, and concern for appearances of impropriety will be the best prophylaxis. We interpret NRS 281.501(2) not to be a strict prohibition, but a stiff caution. In other words, a member of the legislative branch

may speak about a matter in which she is interested, but she had better know why, what, and how *before* she does so.” (Emphasis added.)

In the context of *Opinion No. 97-07*, the Executive Director believes it would be prudent for the full Commission to examine both the context and timing of Mr. Hawk’s May 8 disclosure, as well as his participation in the state Board meeting as a member of the committee to form the charter school to determine if a violation of NRS 281.501(2) may be implicated.

The Executive Director believes sufficient credible evidence exists to present these issues to the full Commission. Only the full commission has the authority to determine if the conduct of Mr. Hawk rises to the level of a violation of state law. Therefore, the Executive Director recommends the panel find just and sufficient cause exists for the Commission to hear the matter and render an opinion regarding whether Mr. Hawk violated the provisions of NRS 281.501(2) or NRS 281.501(4).

#### **H. CONCLUSION**

The Executive Director hereby recommends that the panel find sufficient credible evidence exists to support a finding of just and sufficient cause for the Commission to hear the matter and render an opinion on whether the subject of the complaint violated:

- NRS 281.481(1);
- NRS 281.501(2);
- NRS 281.501(4);
- *NCOE Opinion No. 03-48*; and
- Other relevant provisions of ethics law.

Further, the Executive Director hereby recommends that the panel find no just and sufficient cause exists for the Commission to hold a hearing and render an opinion on the allegations that the subject violated NRS 281.481(2) or NRS 281.481(9), and further that the allegations be dismissed.

DATED: July 6, 2004

Stacy M. Jennings  
STACY M. JENNINGS, MPA  
EXECUTIVE DIRECTOR